United Nations S/2005/367

Security Council

Distr.: General
3 June 2005

Original: English

Letter dated 1 June 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 27 February 2004 (S/2004/155). The Counter-Terrorism Committee has received the attached third report from the Congo submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: French]

Letter dated 26 May 2005 from the Permanent Representative of the Congo to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Acting on instructions from my Government, I have the honour to transmit to you herewith the third report submitted by the Republic of the Congo on the implementation of Security Council resolution 1373 (2001) (see enclosure).

This report answers the Committee's questions and sets forth the Congo's needs in terms of technical assistance.

My Government reiterates its willingness to cooperate with the Counter-Terrorism Committee and is prepared to provide whatever further information may be needed.

(*Signed*) Basile **Ikouebe**

Enclosure

Third report of the Republic of the Congo submitted to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001)

Introduction

The Republic of the Congo is firmly opposed to all forms of violence. It therefore supports any initiative by the international community designed to combat terrorism. That is why, pursuant to Security Council resolution 1373 (2001), it has already produced two reports — an initial report in August 2002 and a supplementary report in June 2003. This report sets forth the progress made since then.

Paragraph 1

Subparagraph 1 (a)

The Congo is a member of the Central African Economic and Monetary Community (CEMAC). On 28 March 2003, the Ministerial Committee of that Community adopted CEMAC Regulations No. 01/03-CEMAC-UMAC concerning the prevention and punishment of money-laundering and of the financing of terrorism in Central Africa which is an integral part of the domestic legislation of the Congo.

The words used in the Regulations to describe the offences of money-laundering and financing of terrorism are identical to those used in article 2 of the International Convention for the Suppression of the Financing of Terrorism and article 6 of the United Nations Convention against Transnational Organized Crime. These offences are directly applicable in the Republic of the Congo since they are part of the legislation of the Community.

Nevertheless, in order to enhance the implementation of these rules, the Republic of the Congo is planning to amend the existing Criminal Code so as to incorporate them into its domestic legislation.

It should be noted that Title III of the Regulation deals with the prevention and detection of the financing of terrorism. To that end it imposes obligations on financial institutions and other specified persons, inter alia the obligation to report suspicious transactions and funds (arts. 36 and 38). Title II concerns the prevention and punishment of money-laundering (art. 18).

Such reports must be made to the national financial investigations agency which is to be set up pursuant to article 5.

If the reports point to facts that may involve the financing of terrorism, the agency must refer them immediately to the Office of the Prosecutor.

Pursuant to article 21, in the absence of a report, administrative proceedings are undertaken and the Prosecutor is kept informed. Anyone who reveals to the owner of the funds or to the author of the transaction that a report has been made to

the agency shall be liable to imprisonment for between 5 and 10 years and to a fine (art. 48).

Subparagraph 1 (b)

The Congo does not yet have any anti-terrorist legislation of its own. However, the offence of financing of terrorism provided for in the CEMAC Regulations is directly applicable to the Congo. According to article 52 of the Regulations that offence is punishable by a prison term of at least 10 years and a fine that can be as much as 10 times the sum involved and in any case will not be less than 10,000,000 CFA francs. The funds do not actually have to have been used for the commission of the offence in order for these penalties to apply. Additional penalties applicable to legal entities are set forth in article 53 of the Regulations.

Subparagraph 1 (c)

With regard to the freezing or confiscation of assets, it should also be pointed out that the CEMAC Regulation contain relevant provisions that can be directly applicable to the Congo. They include:

- Article 41, which provides for freezing the assets of persons found to be guilty of financing terrorism or listed by the Security Council Counter-Terrorism Committee, in accordance with the resolutions concerning the financing of terrorist acts;
- Article 43, which gives the judicial authority the power to seize assets relating to the offence of financing of terrorism which is under investigation, and to order measures, including freezing of capital and of financial operations involving these assets;
- Article 54, which authorizes the competent court, in the case of a conviction for the offence of financing of terrorism or a finding of such an offence by the court, to order the confiscation of the assets which are the subject of the offence, including the income and other advantages derived therefrom, and of the assets belonging, directly or indirectly, to anyone convicted of financing terrorism.

The competent court may also order the confiscation of assets seized or frozen, at the request of the Public Prosecutor where it is established that the assets are the proceeds of an offence or crime or that the authors cannot be prosecuted.

Subparagraph 1 (d)

The CEMAC Regulations also contain provisions that are directly applicable to the Congo in this area. Under article 39, financial and other institutions are required to carefully review operations they carry out and funds they hold directly or indirectly for charitable, cultural or social organizations and are required to keep copies of any documents relating to such careful reviews for five years.

Paragraph II

Subparagraph 2 (a)

The Republic of the Congo has already begun the procedure for ratification of the United Nations Convention against Transnational Organized Crime and the first two protocols thereto. It signed these texts on 14 December 2000.

Subparagraphs 2 (c) and (g)

Concerning maritime security, the Congo organized, with the assistance of the International Maritime Organization, a national seminar in Brazzaville, from 22 to 26 March 2004. It also participated in several regional IMO meetings, including the seminar for West and Central Africa held in Nigeria from 31 March to 3 April 2003 and the seminar for the Maghreb and French-speaking countries held in Algiers from 6 to 10 September 2003.

Paragraph III

Subparagraph 3 (d)

The Republic of the Congo is party to the following:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft;
- Convention for the Suppression of Unlawful Seizure of Aircraft;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

It has also begun the procedure for ratification of the following:

- International Convention for the Suppression of Terrorist Bombings;
- International Convention for the Suppression of the Financing of Terrorism;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;
- International Convention against the Taking of Hostages;
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

It should be noted that a commission has recently been set up to bring the provisions of the Criminal Code into line with those of the universal instruments to combat terrorism and transnational organized crime. This was done following the above-mentioned technical assistance seminar that the Congolese Government organized with the help of the United Nations Office on Drugs and Crime in Brazzaville. The commission is composed of the Ministries involved in the handling of efforts to combat terrorism.

Conclusion

As pointed out in our previous reports, the Republic of the Congo is trying, within the limits of its capacities, to implement the provisions of Security Council resolution 1373 (2001).

However, the assistance of the international community is essential in order to overcome certain difficulties.

That is why, pursuant to paragraph 10 (a) of the action plan of the regional expert seminar on the ratification and implementation of the universal instruments against terrorism, transnational organized crime and corruption, held at Praia, Cape Verde, from 8 to 10 December 2004, the Republic of the Congo would like assistance from the Counter-Terrorism Committee to train experts in techniques for implementing such international instruments and to set up, organize and ensure the operation of a financial intelligence service.